

REMARKS

The Examiner has made a requirement for restriction between the following groups of claims:

Group I: Claims 1-13, drawn to a method for controlling a washing machine; and

Group II: Claims 14-17, drawn to a method of controlling a washing machine.

In order to comply with the Examiner's Restriction Requirement, Applicants provisionally elect to prosecute Group I, directed to claims 1-13, for prosecution in the present application. Applicants reserve the right to file a Divisional application directed to the non-elected claims at a later date, if so desired.

This requirement for restriction is respectfully traversed for the reasons set forth below.

Applicants respectfully submit that the Examiner has failed to meet the required burden of showing that the groups of claims are independent and distinct, as required by law. 35 USC §121 specifically states that the Commissioner may require the application to be restricted if it contains two or more "independent and distinct" inventions claimed in one application. 37 CFR §1.141 and §1.142 further repeat the language that the two or more inventions must be "independent and distinct".

MPEP §802.01 provides specific definitions of the meaning of the terms "independent" and "distinct". MPEP §802.01 states that the terms "independent" and "distinct" do not mean the same thing, but in fact have very different meanings. The term "independent", as set forth in MPEP §802.01, means that "there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect". The term "distinct" means that at least one invention is patentable over the other".

At the outset, the Examiner has not provided separate classifications for the two groups to indicate why the inventions are "distinct" from one another.

In addition, the Examiner has not met the burden of proving that the groupings are "independent" as required by the United States Code, the Code of Federal Regulations, and the Manual of Patent Examining Procedure. The United States Code and the Code of Federal Regulations specifically require both independence and distinctness between properly restrictable groupings.

Applicants respectfully submit that MPEP §802.01 states that inventions are independent where "they are unconnected in design, operation, and effect." MPEP §806.06 cites the intended meaning of independent inventions by citing specific examples of independence, stating "[a]n article of apparel, and a locomotive bearing would be an example. A process of painting a house and a process of boring a well would be a second example."

Applicants respectfully submit that the groups set forth by the Examiner cannot be considered "independent", since the specification clearly discloses the relationship between the subject matter of the claims of these groupings, and thus, the groupings are not wholly unrelated or "independent". Therefore, Applicants respectfully submit that the instant application is not properly restrictable, since the Examiner has not shown that the inventions are "independent" as required by the U.S. Statute.

Accordingly, Applicants respectfully submit that the requirement for restriction is improper, and respectfully request that the requirement for restriction be withdrawn.

In view of the above remarks, reconsideration of the requirement for restriction, and an action on all of the claims in the application, are respectfully requested.

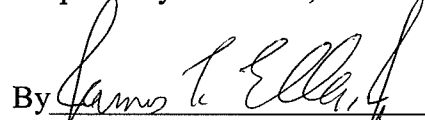
Favorable action on the present application is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone James T. Eller, Jr., Registration No. 39,538, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: September 14, 2009

Respectfully submitted,

By 

James T. Eller, Jr.

Registration No.: 39,538

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road, Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000